

**FREDERICK COUNTY BOARD OF APPEALS**  
**STAFF REPORT MEETING ON MAY 26, 2022 @ 7pm**

**Case Number:** B267765 (B-22-15)

**Applicant:** Richard and Teri Heiland

**Appeal:** Requesting a 5 ft. variance to a 25 ft. front building restriction line in order to add a covered porch, in accordance with Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Zoning Ordinance. If approved, the variance would create a 20. ft. front building restriction line.

**Location:** The Property is described as 6241 Sawyer Road, New Market, MD 21774 Tax Map 0079, Parcel 0273, Zoning, Planned Unit Development (PUD), Size 10,621 sq. ft.

**Planning Region:** New Market

**Zoning District:** Planned Unit Development (PUD)

**Comp. Plan Designation:** Residential

**Applicable Ordinances:** Sec. 1-19-3.220 Variances  
Sec. 1-19-6.100 Design Requirements

**Background**

The property is zoned PUD. The required setbacks for lands zoned R1 are front – 25', side – 8', rear – 25'.

**Proposal:**

The Applicant is requesting a 5 ft. variance to a 25 ft. front building restriction line in order to add a covered porch, in accordance with Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Zoning Ordinance. If approved, the variance would create a 20 ft. front building restriction line.

**§1-19-3.220 - General Criteria - Variance:**

Under the provisions of Section 1-19-3.220(C) of the Frederick County Zoning Ordinance, the Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

- (A) The Board of Appeals may authorize a variance in height, lot area and yard regulations.

***The Applicants state that they understand understand this provision.***

- (B) An application for a variance shall be filed with the Board of Appeals only after refusal of zoning approval or an adverse determination has been issued by the Zoning Administrator.

***The Applicants state that they were directed to the Board of Appeals process by the Frederick County Division of Planning after refusal.***

- (C) The Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

***The Applicants state that they are scheduled to appear before the BOA on May 26, 2022.***

- (1) First, the Board of Appeals shall find that special conditions and circumstances exist which are unique to the land or structure involved and which are not applicable to other lands or structures in the same district.

***The Applicants state that the property is unique in that the lot is somewhat rounded in the front due to a cul-de-sac that the lot sits on. There is virtually no way to add a roof to the porch and meet the required setbacks.***

- (2) Upon making this finding the Board of Appeals shall also find that the following criteria are met:

- (a) That the special conditions and circumstances do not result from the actions of the applicant; and

***The Applicants state that the need for the variance is not based on any actions by the Applicant and is based on the design of the lot.***

- (b) The literal interpretation of the provisions of Chapter 1-19 of the Frederick County Code would result in unreasonable hardship and deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of Chapter 1-19 of the Frederick County Code; and

***The Applicants state that there are many homes that have covered front porches and they do not believe they are requesting anything not commonly enjoyed by others in their area of the County.***

- (c) That granting the variance will not confer on the applicant any special privilege that is denied by Chapter 1-19 of the Frederick County Code to other lands or structures in the same district; and

***The Applicants state that the approval of the variance would not confer any special privilege on the Applicant. Many homes in Frederick County have covered front porches. The 40 ft. Front Setback is fairly large for a home on a cul-de- sac.***

- (d) That the granting of the variance will be in harmony with the general purpose and intent of Chapter 1-19 of the Frederick County Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

***The Applicants state that the variance will be in harmony with the neighborhood and will not be detrimental to the public welfare. The variance to the front BRL in order to construct a roof over the porch will in no way be detrimental to the public.***

- (D) In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with Chapter 1-19 of the Frederick County Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, is a violation of Chapter 1-19 of the Frederick County Code.

***The Applicants state that they understand this requirement.***

- (E) Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of Chapter 1-19 of the Frederick County Code in the zone involved, or any use expressly or by implication prohibited by the terms of Chapter 1-19 of the Frederick County Code in said zone.

***The Applicants state that they understand this requirement, and that the use they propose is not prohibited by Chapter 1-19 of the County Code.***

- (F) Under no circumstances shall the Board of Appeals grant a variance to a nonconforming structure for the portion of structure determined by the Zoning Administrator to be nonconforming.

***The Applicants state that they are not seeking a variance to a nonconforming structure.***

- (G) A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for

good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

*The Applicants state that they understand this requirement.*

**Actions Needed:**

Staff requests that the Board review the general criteria for a variance under Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Code and render a decision on the Applicant's request for a 5 ft. variance from the 25 ft. required front building restriction line in order to construct an addition to the existing residence.

**A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months**

**Attachment 1**













